

### **REMARKS**

The last Office Action, which has been made final, in the above-identified application and the references cited by the Examiner have been carefully considered. The claims in their present form, except for a minor amendment made to Claim 9 to change the word "method" to "apparatus", are respectfully urged to patentably distinguish over the references cited by the Examiner. Therefore, original Claims 1-8 and 10-14 and previously presented new Claims 15 and 16 have not been amended. Applicant respectfully submits herewith further arguments in support of the patentability of the claims for the Examiner's kind consideration.

Original Claims 1-14 and newly presented Claims 15 and 16 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. patent application having Publication No. 2002/0126993 (Sakuramoto et al.). The Examiner's comments found on Page 2 of the Office Action in response to the arguments which Applicant respectfully submitted in his Reply to Office Action dated January 11, 2008 have been carefully considered.

As the Examiner may recall, in Applicant's Reply to Office Action dated January 11, 2008, Applicant respectfully submitted that the Sakuramoto, et al. publication discloses a recording/reproducing apparatus that samples the position of the disk periodically (i.e., every one minute, for example) to determine the last known video reproducing position on the disk in the event of a power failure. Applicant further argued that the content recording apparatus and method defined by Claims 1-16 of the subject application do not periodically sample the position on the disk at a periodic interval, as disclosed in the Sakuramoto, et al. published application, but rather write into a non-volatile storing area file information that identifies the data file at each time that a designation of the designator is updated such that the reference data file is the data file specified by the latest filed information stored in the non-volatile storing area. Applicant further argued that with the Sakuramoto, et al. apparatus, depending on what the timer 4 sets the interruption sampling timing to be, the last location on the disk prior to the power failure may be incorrect by as much as the full sampling time set by the timer 4.

Applicant gratefully appreciates the Examiner's comments in response to the arguments submitted in Applicant's previously-filed Reply to Office Action. The Examiner kindly disagreed with Applicant's statement that "Applicant's invention does not periodically

sample the position on the disk at a periodical interval, as taught in the Sakuramoto, et al. patent application". The Examiner appears to argue that the Sakuramoto, et al. published application discloses the limitation of writing into a non-volatile storing area file information at each time that a designation of the designator is updated, and he kindly refers to Paragraph [0113] of the Sakuramoto, et al. publication for disclosing this.

The rejection of Claims 1-16 as being anticipated by the Sakuramoto, et al. published application is respectfully traversed. Applicant would first like to refer the Examiner to independent Claims 1 and 8.

Independent Claims 1 and 8 are directed to a content recording apparatus and method, where the apparatus has a non-volatile storing area (e.g., a non-volatile memory) for storing file information to resume a writing operation from the writing ending location or the vicinity thereof in a situation where a writing operation to the recording medium is abnormally ended due, for example, to an instantaneous power failure, and updates the information stored in the non-volatile area as appropriate. Applicant's method of Claim 8 includes steps comparable to the limitations set forth in Claim 1.

In this respect, there are important distinctions between the reproducing method and apparatus disclosed in the Sakuramoto, et al. published application and the invention defined by independent Claims 1 and 8. First, the information stored in the non-volatile area in accordance with the apparatus and method of the present invention defined by independent Claims 1 and 8 is file information, indicating a file (that is, reference data file) to which data is currently being written. In contrast, the reproducing method and apparatus disclosed in the Sakuramoto, et al. published application is location information, which indicates a location (that is, an address) on the recording medium to which data is currently being written. Applicant respectfully refers the Examiner to Paragraphs [0023] and [0098] of the Sakuramoto, et al. published application in this regard, where "information indicative of the reproducing position" ([0023]) and "information indicative of the video reproducing position" ([0098]) are stored in the non-volatile memory of the Sakuramoto, et al. reproducing apparatus.

Second, as defined by independent Claims 1 and 8 of the subject application, the file information which is stored in the non-volatile memory is updated every time that a new

reference data file is designated. In contrast, in the Sakuramoto, et al. reproducing method and apparatus, updating the location information is performed at a predetermined cycle. Again, the Examiner is respectfully referred to Paragraphs [0023] and [0098] where the predetermined cyclic updating of the location information is disclosed.

There are several advantages of Applicant's content recording apparatus and method defined by Claims 1 and 8 of the subject application over the apparatus and method disclosed in the Sakuramoto, et al. published application. First, with Applicant's claimed recording apparatus and method, the updating cycle of the file information in the non-volatile area is generally longer than the updating cycle of the location information disclosed in the Sakuramoto, et al. published application. This makes the processing load for the content recording apparatus and method of the claimed invention lighter.

Second, in the Sakuramoto, et al. reproducing apparatus and method, the difference between an actual writing location and a location indicated by the location information stored in the non-volatile area, that is, an error between the writing ending location and the writing starting location, is made greater as the updating cycle of the location information increases in time. However, with respect to the content recording apparatus defined by Claim 1 and the content recording method defined by Claim 8 of the subject application, such an error has an upper limit that corresponds to the size of the reference data file.

In summary, with respect to the content recording apparatus of Claim 1 and the content recording method of Claim 8, the processing load of the apparatus and method is reduced, and any error between a writing ending location and a writing starting location is limited by the size of the reference data file.

Accordingly, for the reasons stated above, it is respectfully urged that independent Claims 1 and 8 patentably distinguish over the Sakuramoto, et al. published application and are allowable.

Applicant now respectfully refers the Examiner to dependent Claim 2 and independent Claim 9. In these claims, a discontinuing point on the reference data file is detected, and a writing starting location is decided on the basis of the detection result. Therefore, it is possible to reduce any error which may occur with respect to the difference

between the actual writing location and any information stored in the non-volatile area. The target of the detection processing which is occurring in the content recording apparatus defined by Claims 2 and 9 is restricted to the reference data file, and such accordingly is capable of reducing the increase in the processing load of the claimed content recording apparatus.

Stated another way, in accordance with Claims 2 and 9, after the reference data file is specified with reference to the information stored in the non-volatile area, a discontinuing point on the reference data file is further detected. By doing this, it becomes possible to start the writing operation with an increase in the processing load of the apparatus and method reduced and with a smaller error, such error being on the order of the size of the frame.

Contrary to the content recording apparatus defined by Claims 2 and 9, in the Sakuramoto, et al. reproducing apparatus and method, if an error on the order of a frame size occurs, the information in the non-volatile area has to be updated for each frame. This inevitably causes a substantial increase in the processing load of the Sakuramoto, et al. reproducing apparatus and method.

Thus, for the reasons stated above, it is respectfully urged that dependent Claim 2 and independent Claim 9 patentably distinguish over the Sakuramoto, et al. published application and are allowable. Furthermore, because of its dependency on Claim 1, Claim 2 is respectfully urged to patentably distinguish over the Sakuramoto, et al. published application for the same reasons submitted with respect to Claim 1.

With respect to dependent Claims 3-6 and 10-13, which depend directly or indirectly on Claims 1 and 9, respectively, these claims include limitations which provide for a high compatibility to a standard motion image file format, notably, the MPEG format. In contrast, there is no disclosure in the Sakuramoto, et al. published application of a method accomplishing a high compatibility to the standard motion image file format.

Accordingly, for these reasons, and for the reasons submitted with respect to independent Claims 1 and 9 from which Claims 3-6 and 10-13 directly or indirectly depend, it is respectfully urged that dependent Claims 3-6 and 10-13 patentably distinguish over the Sakuramoto, et al. published application and are allowable.

Claim 7 depends from Claim 1 and defines the plurality of data files as having the same capacity. Accordingly, because of its dependency on Claim 1, it is respectfully urged that Claim 7 patentably distinguishes over the Sakuramoto, et al. reference for the same reasons submitted with respect to Claim 1.

Independent Claim 14 is a method claim which is similar in many respects to apparatus Claim 2. Claim 14 defines Applicant's content recording method as including the steps of recording into a recording medium content data formed of a plurality of partial contents, creating index data including location information indicating a location of each of the plurality of partial contents, and time information indicating a time at which each of the plurality of partial contents has been obtained, detecting a temporal discontinuing point of the index data based on the time information before the recording step is started, and determining a location of starting recording the content data based on the temporal discontinuing point detected in the previous steps. As can be seen, the method steps of Claim 14 are similar in many respects to the limitations set forth in Claim 2. Thus, a discontinuing point on the reference data file is detected and a writing starting location is decided on the basis of the detection result. Therefore, it is possible to reduce the error, if any, occurring between the writing ending location and the writing starting location, in the same way that the content recording apparatus defined by Claim 2 reduces such an error. As such, it is respectfully urged that Claim 14 patentably distinguishes over the Sakuramoto, et al. published application for the same reasons submitted with respect to Claim 2 and is allowable.

Claims 15 and 16 were added in Applicant's Reply to Office Action dated January 11, 2008. These claims have, too, been rejected as being anticipated by the Sakuramoto, et al. published application.

With respect to independent Claim 15, a temporal discontinued point is detected, and a first record starting location at a location corresponding to the temporal discontinued point is set. Thus, in a situation where a recording operation is abnormally ended, such as due to an abrupt power failure, a temporal discontinued point of the index data is detected and the position corresponding to this temporal discontinued point is set as the recording starting location. In contrast, with the Sakuramoto, et al. reproducing apparatus and method, if the

recording operation is abnormally ended, writing is started from the position indicated by the location information stored in the work memory or the non-volatile memory. Applicant respectfully refers the Examiner to Paragraphs [0050] and [0052] of the Sakuramoto, et al. published application where such is described. Thus, the Sakuramoto, et al. reproducing apparatus includes different structure and operates differently from the recording apparatus defined by Claim 15, and has no detector that detects a temporal discontinued point or a setter which sets the first record starting location at a location corresponding to the temporal discontinued point, such as defined by Claim 15. Accordingly, it is respectfully urged that Claim 15 patentably distinguishes over the Sakuramoto, et al. published application and is allowable.

Claim 16 depends from Claim 15 and is respectfully urged to patentably distinguish over the Sakuramoto, et al. published application for the same reasons submitted with respect to independent Claim 15. Furthermore, in Claim 16, the first setter sets a location of the intra-encoded image included in an image group in which the temporal discontinued point belongs as the first record starting location if data corresponding to the discontinued point is not the intra-encoded image. Neither the temporal discontinued point of the index data nor the location of the intra-encoded image, as recited in Claim 16, is disclosed in the Sakuramoto, et al. published application. Accordingly, not only because Claim 16 depends from Claim 15 and patentably distinguishes over the Sakuramoto, et al. published application for the same reasons submitted with respect to Claim 15, Claim 16 further patentably distinguishes over the Sakuramoto, et al. published application for the reasons stated above, and is allowable.

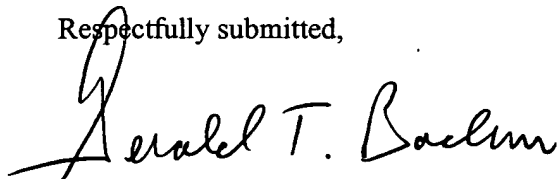
In summary, it is respectfully urged that Claims 1-16 patentably distinguish over the Sakuramoto, et al. published application and are allowable.

In view of the foregoing amendments and remarks, entry of the amendment to Claim 9, reconsideration of Claims 1-16 and allowance of the application with Claims 1-16 are respectfully solicited. It is respectfully urged that no new matter has been added to the claims by the amendments made herein, and no further search on the merits is required by the amendments to the claims. Also, it is respectfully urged that the amendments to the claims place the application in proper form for allowance or appeal.

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If the Examiner has any questions or suggestions which may help expedite the prosecution of this application to a favorable conclusion, it is respectfully requested that he contact the undersigned attorney at the telephone number given below. Any suggestions by the Examiner would be gratefully appreciated and strongly considered.

Respectfully submitted,

A handwritten signature in cursive script, reading "Gerald T. Bodner", written over a horizontal line.

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